

REMARKS

The Applicants respectfully request reconsideration in view of the following remarks. In response to the Office Action, no claims are amended, no claims are cancelled, and no claims are added. Accordingly, claims 1-16 are pending in the Application.

I. Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 6, 7, 9, 10, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0001864 filed by Charpentier (“Charpentier”) in view of U.S. Patent No. 7,237,190 issued to Rollins et al. (“Rollins”). Claims 3-5 and 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Charpentier in view of Rollins, and further in view of U.S. Publication No. 2001/0047422 filed by McTernan *et al.* (“McTernan”). Claims 8 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Charpentier in view of Rollins and further in view of U.S. Patent No. 6,232,974 issued to Horvitz *et al.* (“Horvitz”).

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

In regards to the rejection of claims 1 and 9 under 35 U.S.C. § 103, these claims recite “a graphics meta-data adapting means for adapting meta-data of graphics contents such that the meta-data corresponds to characteristics of the graphics contents after being adapted by the graphics adapting means” (claim 1) and “adapting meta-data of the graphics contents such that the meta-data corresponds to characteristics of the graphics contents after being adapted according to the graphics usage environment information” (claim 9). The Applicants submit that the combination of Charpentier and Rollins fails to teach or suggest these elements of claims 1 and 9.

The Examiner cites paragraphs [0028] and [0031] of Charpentier to allegedly disclose these elements of claims 1 and 9. These sections of Charpentier disclose transforming graphics information according to a computing device upon which the graphics information is to be

displayed. See Charpentier, paragraph [0028]. Charpentier discloses that this graphics information is not metadata information as argued by the Examiner, but instead is the actual graphics which will be displayed on the computing device. See Charpentier, paragraph [0021]. Charpentier further discloses that if the graphics information has not been transformed/customized, the format of the graphics information is determined by examining the header and extension information of the graphics information. See Charpentier, paragraph [0031]. Thus, Charpentier only discloses transforming graphics and examining metadata information of the graphics. However, Charpentier fails to disclose also updating the metadata associated with transformed/customized graphics as recited in claims 1 and 9, because there is no discussion in this reference concerning modifying metadata. Further, the Examiner has not cited and we have been unable to locate any sections of Rollins which cure the deficiencies of Charpentier. Thus, the combination of Charpentier and Rollins fails to teach or suggest these elements of claims 1 and 9 and cannot maintain a rejection under 35 U.S.C. § 103.

Adjusting the metadata associated with graphics objects after the graphics objects have been altered allows the adapted graphics to be accurately catalogued and organized. Modern digital graphics programs typically utilize this metadata to sort and display characteristic data about the graphics objects. See “Metadata.” Wikipedia: The Free Encyclopedia. Wikimedia Foundation, Inc. 9 June 2009. <<http://wikipedia.org/wiki/Metadata>>. By updating this data per the adaptation, the apparatuses of claims 1 and 9 ensure that the metadata attached to the graphics contents is accurate and will consequently be properly organized.

By failing to disclose adapting meta-data of graphics contents such that the meta-data corresponds to characteristics of the graphics contents, the combination of Charpentier and Rollins fails to teach or suggest each element of claims 1 and 9. According to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Therefore, claims 1 and 9 are not obvious in view of the cited prior art. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1 and 9 on this basis.

In regard to claims 2-8 and 10-16, these claims depend from independent claims 1 and 9, respectively and incorporate the limitations thereof. The Examiner’s argument assumes that the combination of Charpentier and Rollins discloses all elements of claims 1 and 9 which are

incorporated in dependent claims 2-8 and 10-16. However, as discussed above, the combination of Charpentier and Rollins does not disclose all the limitations of claims 1 and 9. Further, McTernan and Horvitz fail to cure the deficiencies of Charpentier and Rollins. Therefore, claims 2-8 and 10-16 are not obvious in view of the cited prior art. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-8 and 10-16 on this basis.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on December 28, 2009, Applicants respectfully petition Commissioner for a one (1) month extension of time, extending the period for response to April 28, 2010. The amount of \$65.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity will be charged to our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: _____

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I hereby certify that this paper is being transmitted online via EFS Web to the Patent and Trademark Office, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on the date below.

Jessica Huester

Date

Jessica Huester 2010-04-27